

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

SMITHWAY MOTOR XPRESS, INC.,
WESTERN EXPRESS, INC., and
NATIONAL CASUALTY COMPANY,

Plaintiffs,

v.

JAMES A. SCOTT & SONS, INC., individually,
and d/b/a SCOTT TRANSPORTATION
SERVICES and d/b/a SCOTT
TRANSPORTATION and d/b/a SCOTT
INSURANCE; and REGIONS INSURANCE,
INC., individually, and d/b/a INSURISK
EXCESS AND SURPLUS LINES,

Defendants.

Case No. _____

JURY DEMAND

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, the Defendant, Regions Insurance, Inc. (“Regions Insurance”), respectfully submits this Notice of Removal, and states as follows in support thereof:

A. The State Court Action.

On September 17, 2012, the Plaintiffs, Smithway Motor Express, Inc., Western Express, Inc., and National Casualty Company (collectively the “Plaintiffs”) filed a Complaint against Regions Insurance and James A. Scott & Sons, Inc. (collectively the “Defendants”), in the Circuit Court for Davidson County, Tennessee, styled *Smithway Motor Express, Inc., Western Express, Inc., and National Casualty Company v. James A. Scott & Son, Inc. individually, and d/b/a Scott Transportation Services and d/b/a Scott Transportation and d/b/a Scott Insurance; and Regions Insurance, Inc. individually, and d/b/a Insurisk Excess and Surplus Lines*, Docket

No. 12-C-3728. Regions Insurance was served with the Complaint on September 17, 2012. A copy of all the process, pleadings and orders which have been filed in this action are attached hereto as Collective Exhibit A. The Defendants have not yet filed an Answer or otherwise responded to the Complaint.

B. Timeliness of Removal

This removal is timely. This removal is being filed within thirty (30) days of the Defendants' receipt of the Complaint and is therefore timely under 28 U.S.C. § 1446(b).

C. Diversity Jurisdiction

This action is within the original jurisdiction of the District Court pursuant to 28 U.S.C. § 1332. Section 1332 provides, in pertinent part, that "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States." 28 U.S.C. § 1332(a)(1). This action satisfies both statutory requirements.

1. The Amount in Controversy Exceeds \$75,000

In the Complaint, the Plaintiffs seek monetary damages "in excess of one million dollars (\$1,000,000.00). (See Exhibit A, Complaint, ¶¶ 56, 80, 106 and 131)..

2. There is Diversity of Citizenship between the Plaintiffs and the Defendants

There is complete diversity between the parties. As noted in the Complaint:

- a. Smithway is a corporation organized under the laws of the State of Iowa;
- b. Western Express is a corporation organized under the laws of the State of Tennessee;
- c. NCC is an Arizona Company;
- d. Scott is a corporation organized under the laws of the Commonwealth of Virginia;
and

- e. Regions Insurance is a corporation organized under the laws of the State of Arkansas.

As a result of the foregoing, there is complete diversity between all named Plaintiffs and all named Defendants, and no Defendant is a citizen of the forum state. As a result, there is diversity of citizenship in this matter for purposes of 28 U.S.C. § 1332.

D. Notice to State Court and Plaintiff

Also, contemporaneous with the filing of this Notice, Regions Insurance has provided written notice to the Plaintiffs and have filed a notice of this removal with the Circuit Court for Davidson County, Tennessee.

E. Conclusion

Wherefore, this action should proceed in the United States District Court for the Middle District of Tennessee, as an action properly removed thereto.

Respectfully submitted,

**BUTLER, SNOW, O'MARA,
STEVENS & CANNADA, PLLC**



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Attorneys for Regions Insurance, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded, via hand-delivery, on this 17th day of October, 2012, to the following:

Roland M. Lowell
7135 Centennial Place
Nashville, Tennessee 37209

James A. Scott & Sons, Inc.
Corporation Service Company
2908 Poston Avenue
Nashville, Tennessee 37203



Kevin C. Baltz

ButlerSnow 14244274v1